

AGENCY MEMBERS PRESENT

Carl Koella, III, Vice Chair
Judy Black
Kristen Coile
Greg Lammert
Peggy Troy
Faye Weaver

AGENCY MEMBERS ABSENT

Gene Caldwell
Bryan Atchley
Cheryl Cunningham
Charles Handorf

AGENCY STAFF PRESENT

Melanie Hill, Executive Director
Mark Farber, Assistant Executive Director
Reid Brogden, General Counsel
Jim Christofferson, Deputy General Counsel
Rhonda Blair, Office Manager
Melissa Bobbitt, Administrative Services Assistant
Sue Kerley, Administrative Assistant

GUESTS PRESENT

Ahsan, Jawaid., Sumner Regional Medical Center
Antwine, Harold (Trey), West Tennessee Bone & Joint
Baker, E. Graham, Esq., Weeks, Anderson & Baker
Bouldin, Jennifer, Administrator, Generations Center of Spencer,
Brown, Dere, NHC Healthcare
Burns, Vicki, HeathSouth Chattanooga Surgery Center
Campbell, Kathy, V.P/CFO, Generations Center of Spencer
Catlin, Christian
Chang, Mike, CEO, Scenic City Isotopes
Chavez, Mike, Director of Operations, Scenic City Isotopes
Corritore, Danell, Department of Health
Culp, Joe, Department of Health
Curtis, Sandra, Memorial Health Care System
Day, Ed, Health Care Consultant
Duncan, Bruce, VP, NHC Healthcare
Eads, Judy, Department of Health
Eiler, L. Dean, Planning Analyst, Sumner Regional Health System
Elrod, Dan, Esq., Miller & Martin
Gaither, David, President/CFO, Generations Health Association, Inc.,
Gift, Bob, Memorial Health Care System
Gooch, Warren, Esq., Kramer, Rayson, Leake, Rodgers & Morgan
Grace, Jr., Frank, Esq., Waller, Lansden, Dortch & Davis
Gurley, Larry
Hill, D.J., Titan Health Corp
Houchin, Barbara, St. Thomas Health Systems
Kail, Bill, Administrator, Humboldt General Hospital
Klutts, Donna, Administrator, West Tennessee Bone & Joint Clinic

Lake, Victoria, Jackson-Madison County General Hospital
Lepley, Stephen, Home Care Solutions
Lonis, Bob, Maury Regional Hospital
Miller, Thomas Paul, Dr., Specialists in Pain Management
Moscardelli, Michael, Esq., Baker, Donelson, Bearman, Caldwell & Berkowitz PC
Myers, Becky, Memorial Mission Surgery Center
Myers, Rosemary, West Tennessee Bone & Joint
Pearre, Courtney
Penny, Linda, Comptroller's Office
Pucek, Kelly, MD., West Tennessee Bone & Joint Clinice
Puri, Chris, THCA
Putnal, Steve
Reave, Scott, Memorial Mission Surgery Center
Rogers, Earl, Sumner Regional Medical Center
Ross, Kathy, V.P., Systems Services, Humboldt General Hospital
Sainato, John, Project Analyst, Sumner Regional Health System
Stanley, Michael, Director, Diagnostic Services, Sumner Regional Medical Center
Steffens, Randall Lee, Chief of Staff, Smith County Memorial Hospital
Stiles, Bill, Memorial Mission Surgical Center
Taylor, Jerry, Esq., Farris, Mathews, Branam, Bobango, Hellen & Dunlap
Utey, Jennifer, Dr., Humboldt General Hospital
Walker, Ron, CEO, Smith County Memorial Hospital
Wellborn, John, Consultant, Development Support Group
White, Brian, Competitive Solutions
Wood, Betsy, THA
Young, Dave, Sumner Regional Hospital
Zampetti, Peggy, Titan Health Corp.

Vice Chairman Koella called the meeting to order at 8:40 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, introduced Judy Black, RN, Director of Disease Management, Bureau of TennCare, as the Designee for the Honorable J.D. Hickey, Director of TennCare. Ms. Hill made general announcements which included the date for the December meeting (December 15, 2004), and the deferral of Vaughn Home Health Services, Inc., CN0407-061 and St. Francis Hospital-Bartlett CN0408-083 to the December meeting. Ms. Hill also noted the Rulemaking Hearing, scheduled for Friday, November 19, 2004 in Room 12-14 of the Legislative Plaza.

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Sumner Regional Medical Center, Gallatin (Sumner County), TN — CN0406-058

The initiation of mobile positron emission tomography (PET) services to be operated on the hospital campus one day per month under hospital licensure. The service will be provided by a mobile vendor docking at the hospital's mobile services pad on the campus. The hospital will remain licensed as a 145 bed general hospital. The project does not contain any major medical equipment or initiate or discontinue any other health service; and it will not affect the hospital's licensed bed complement. \$91,500.00

DEFERRED FROM THE SEPTEMBER MEETING

John Wellborn, Consultant, addressed the agency on behalf of the project. Dr. Jawaid Ahsan spoke on behalf of the project. Mike Stanley and John Sainato were present in support of the project.

Ms. Coile moved for approval of the project to initiate mobile positron emission tomography (PET) services one day per month based on: 1) Need – The need has been shown as they will only be using the existing PET one day per month and they do have a specialty focus for the patients of Dr. Ahsan; 2) Economic Feasibility – The project is economically feasible with cash reserves and will be slightly profitable; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. There is no opposition to the project and they are a good TennCare participant. Ms. Troy seconded the motion. The motion CARRIED [6-0-0] **APPROVED**

AYE: Weaver, Troy, Lammert, Coile, Black, Koella
NAY: None

Humboldt General Hospital, Humboldt (Gibson County), TN – CN0407-064

Discontinuance of obstetrics services at Humboldt General Hospital, 3525 Chere Carol Road, Humboldt, TN 38343. There will be no change in the licensed total bed count of sixty-two (62) beds. The eleven (11) obstetrics beds will be converted to medical beds. There is no purchase of major medical equipment and no initiation of major health care services. \$12,500.00

DEFERRED FROM THE OCTOBER MEETING

Dan Elrod, Esq., addressed the agency on behalf of the project. Dr. Jennifer Utley, Humboldt General Hospital and Bill Kail, Administrator, Humboldt General Hospital, spoke on behalf of the project. Victoria Lake, Director, Market Research and Community Development, Humboldt General Hospital, and Kathy Ross, Vice-President, System Services, Humboldt General Hospital, were present in support of the project.

Ms. Coile moved for approval of the project based on: 1) Need – The need has been demonstrated in that they have tried diligently to recruit additional obstetrics staff and have been unable to do so; 2) Economic Feasibility – The project is economically feasible with cash reserves; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. The other hospitals available are participants in TennCare which gives the women a viable alternative and there are several letters supporting the application. Ms. Troy seconded the motion. The motion was amended by Ms. Coile to include the conversion of 11 obstetric beds to medical beds. Ms. Troy seconded the amendment. The motion, as amended, CARRIED [6-0-0] **APPROVED**.

AYE: Weaver, Troy, Lammert, Coile, Black, Koella
NAY: None

Gurley Surgery Center, Nashville (Davidson County), TN – CN0408-074

The establishment of a single specialty ambulatory surgical treatment center (ASTC) for gynecological procedures performed by Larry D. Gurley, M.D. Medical equipment to be used includes hysteroscopy devices. \$142,000.00

Frank Grace, Jr., Esq., addressed the agency on behalf of the project. Dr. Larry D. Gurley spoke on behalf of the project. Bryan White was present in support of the project.

Ms. Coile moved for approval of the project for single specialty ambulatory surgery treatment center limited to gynecological procedures as recited in the Letter of Intent and limited to procedures performed by Dr. Larry Gurley based on: 1) Need – The need has been demonstrated through the patient base of Dr. Gurley and the specialized equipment that is not available in hospitals or other settings. It will also allow the privacy of patients to be further

protected; 2) Economic Feasibility – The project is economically feasible with cash reserves and funding available; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. There is no opposition from the other ASTCs in the region. Dr. Gurley has committed to make his best attempts to have a TennCare contract in place so that TennCare patients can be served by this project. Ms. Troy seconded the motion. The motion CARRIED [5-1-0] **APPROVED**

AYE: Troy, Lammert, Coile, Black, Koella
NAY: Weaver

Smith County Memorial Hospital, Carthage (Smith County), TN – CN0408-075

The expansion of magnetic resonance imaging (MRI) through the conversion of its existing mobile service to a fixed-based unit on the hospital's campus. The unit will be housed in a modular building located immediately adjacent to the hospital and attached by a covered walk-way. The proposal requires no construction or renovation. There are no new beds, licensure change, or new health service associated with this project. \$491,246.93

Ron Walker, CEO, Smith County Memorial Hospital, addressed the agency on behalf of the project. Randall Lee Steffens, Chief of Staff, Smith County Memorial Hospital, spoke on behalf of the project. Frank Grace, Jr., Esq., was present representing the Applicant.

Ms. Coile moved for approval of the project based on: 1) Need – The need has been demonstrated as they will be the only fixed magnetic resonance imaging (MRI) unit within a 30-mile drive of the hospital; 2) Economic Feasibility – The project is economically feasible due to lower charges associated with the upgraded unit and funds are available through the parent company to finance the purchase; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. There are no other days available on the current mobile unit and they are a good TennCare provider. There is no opposition. Ms. Weaver seconded the motion. The motion CARRIED [6-0-0] **APPROVED**

AYE: Weaver, Troy, Lammert, Coile, Black, Koella
NAY: None

Scenic City Isotopes, LLC, Chattanooga (Hamilton County), TN – CN0408-076

The establishment of a cyclotron production facility. The facility will produce and distribute radiopharmaceutical agents for use in positron emission tomography (PET) imaging. Major medical equipment to be acquired is a 16 MeV Cyclotron. No health care services will be provided by the applicant. The facility will be registered with the Division of Radiological Health of the Tennessee Department of Environment and Conservation. \$2,878,261.55

Jerry W. Taylor addressed the agency on behalf of the project. Mike Chavez, Director of Operations, Scenic City Isotopes, and Steve Putnal spoke on behalf of the project.

Mr. Lammert moved for approval of the project based on: 1) Need – There obviously is a need in the area; 2) Economic Feasibility – The project is economically feasible based on the reserves that are available; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care in the Chattanooga area. Ms. Black seconded the motion. The motion CARRIED [6-0-0] **APPROVED**

AYE: Weaver, Troy, Lammert, Coile, Black, Koella
NAY: None

Chattanooga Pain Management Center, LLC, Hixson (Hamilton County), TN – CN0408-077

The establishment of an ambulatory surgical treatment center (ASTC) limited to pain management. The facility contains 9,000 square feet of space with one operating room and two procedure rooms located at 261 Ring Road, Hixson (Hamilton County), Tennessee. The project does not contain any major medical equipment and no other health services will be initiated or discontinued. \$4,486,352.00

Jerry Taylor, Esq., addressed the agency on behalf of the project. Dr. Thomas Miller, Specialists in Pain Management, Dr. Roger Catlin, and Peggy Zampetti, RN, Titan Health Corporation, spoke on behalf of the project.

Dan Elrod, Esq., on behalf of Memorial Health Care System and E. Graham Baker, Esq., on behalf of HealthSouth Chattanooga Surgery Center spoke in opposition to the project. Bill Stiles and Scott Reave, Memorial Mission Surgery Center, were present in opposition.

Mr. Taylor rebutted.

Mr. Elrod and Mr. Baker provided summation for the Opposition.

Mr. Taylor provided summation for the Applicant.

Ms. Coile moved for approval of the project, limited to pain management, based on: 1) Need – The need has been met as all the other ASTCs in the service area are beyond the guidelines for growth; 2) Economic Feasibility – The project is economically feasible due to commercial loan and cash reserves for funding; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. They are TennCare providers and have support from the patients and the community. Mr. Koella seconded the motion. The motion CARRIED [5-1-0] **APPROVED**.

CONDITION: LIMITED TO PAIN MANAGEMENT

AYE: Weaver, Troy, Coile, Black, Koella
NAY: Lammert

Marshall Medical Center, Lewisburg (Marshall County), TN – CN0408-078

The conversion of five (5) existing general acute beds to swing beds and the initiation of swing bed services. The initiation of the swing bed service will not increase the licensed bed capacity of the hospital. These beds will be licensed as hospital beds by the Tennessee Department of Health. The project does not contain any major medical equipment or initiate or discontinue any other health service. \$28,000.00

Dan Elrod, Esq., addressed the agency on behalf of the project. Bob Lonis, Anette Todd, and Ed Day were present in support of the project.

Ms. Coile moved for approval of the project contingent upon designation as a critical access hospital and the delicensure of 94 beds, based on: 1) Need – The need as been met. There has been a demonstrated need for nursing beds in the service area; 2) Economic Feasibility – The project is economically feasible as there is cash on hand and will be a very low fiscal impact to the hospital; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care. There is a need in this region for a critical access hospital and these beds. There is no opposition. Ms. Troy seconded the motion. The motion CARRIED [5-0-1] **APPROVED**

CONDITION: Contingent upon the delicensure of 94 beds and subsequent designation as a critical access hospital (CAH).

AYE: Troy, Lammert, Coile, Black, Koella
NAY: None
ABSTAINED: Weaver

West Tennessee Bone and Joint Clinic, Jackson (Madison County), TN — CN0408-079

The establishment of an outpatient diagnostic center (ODC) with a magnetic resonance imaging (MRI) unit to be limited to the medical practices of West Tennessee Bone & Joint Clinic, P.C. and West Tennessee Neurosurgical Clinic, P.C. The facility will be located at the West Tennessee Bone & Joint Clinic practice office located at 24 Physicians Drive, Jackson (Madison County), Tennessee 38305. It will replace a three (3) day per week mobile MRI service currently serving patients at its facility. It will be placed in a new 2,050 square foot addition to the practice office building at this address. The ODC will be licensed by the Tennessee Department of Health. This project does not contain any other major medical equipment, initiate or discontinue any other health service, or affect inpatient bed complements at any facility. \$2,337,657.00

Donna Klutts, Practice Administrator, West Tennessee Bone and Joint Clinic, spoke on behalf of the project. John Wellborn represented the Applicant. Harold Antwine III and Kelly Pucek were present in support of the project. Dan Elrod, representing Jackson Madison County General Hospital spoke in support of the project, contingent upon the project being limited as described by the Applicant.

Mr. Lammert moved for approval of the project, specifically limited to the two physician practices, based on: 1) Need – The Applicant has indicated need based on the information provided; 2) Economic Feasibility – The project is economically feasible; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care in the area. A friendly amendment was added by Ms. Coile that the existing CON for the mobile MRI unit be surrendered. The motion was seconded by Ms. Coile. The motion CARRIED [6-0-0] **APPROVED**

CONDITION: Limited to physician practices of West Tennessee Bone & Joint Clinic, P.C., and West Tennessee Neurosurgical Clinic, P.C. The CON for the mobile MRI unit will be surrendered.

AYE: Weaver, Troy, Lammert, Coile, Black, Koella
NAY: None

Generations Center of Spencer, Spencer (Van Buren County), TN — CN0408-080

The addition of ten (10) Medicare skilled Level II beds. The nursing home now has sixty (60) beds: seventeen (17) skilled (Level II) and forty-three (43) intermediate (Level I). The addition of these ten (10) skilled beds will bring the total licensed beds at the nursing home to seventy (70) beds: Twenty-seven (27) skilled (Level II) and forty-three (43) intermediate (Level I) beds. There will be no major medical equipment involved in this project. It is proposed that TennCare, Medicaid, and Medicare patients, in addition to private-pay patients, will continue to be served by the nursing home, and the nursing home will continue to be licensed by the Tennessee Department of Health. \$63,500.00

E. Graham Baker addressed the agency on behalf of the project. David Gaither, President, Generations Health Association, Inc., spoke on behalf of the project. Kathy Campbell, Vice-president/CFO, Generations Center of Spencer, and Jennifer Bouldin, Administrator, Generations Center of Spencer were present in support of the project

Ms. Troy moved for approval of the project based on: 1) Need – The project meets a need that is present in the community and meets the need of what we are trying to do; 2) Economic Feasibility – The project is economically feasible; and 3) Orderly Development – The project does contribute to the orderly development of adequate and effective health care as they are currently at capacity. The motion was seconded by Mr. Koella. The motion CARRIED [5-1-0] **APPROVED**

AYE: Weaver, Troy, Coile, Black, Koella
NAY: Lammert

GENERAL COUNSEL'S REPORT:

- A. Sumner Diagnostic Center, (Gallatin, Sumner Co), TN -- CN0110-084A REQUEST FOR TWO YEAR EXTENSION OF EXPIRATION DATE.** The CON was originally issued on February 27, 2002 with an expiration date of March 1, 2005, for the establishment of an outpatient diagnostic center (ODC), the initiation of magnetic resonance imaging (MRI) services, and the acquisition of a MRI scanner as well as computed tomography, ultrasound, and mammography imaging equipment in a 14,550 square feet satellite facility.

David Young, Senior Vice-President, Planning and Technology, Sumner Diagnostic Center, spoke on behalf of the project. L. Dean Eiler, Planning Analyst, Sumner Regional Health System, was present in support of the project.

Mr. Koella moved for approval of the extension until March 1, 2007. The motion was seconded by Mr. Lammert. The motion CARRIED [6-0-0]. **APPROVED.**

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

Mr. Lammert moved to accept the Minutes of the October 27, 2004 meeting. Second was given by Ms. Coile. The Minutes were accepted by unanimous voice vote.

OTHER BUSINESS:

Reid Brogden, General Counsel provided the Members with information concerning the Rulemaking Hearing, scheduled for November 19, 2004, in Room 12-14, Legislative Plaza. The hearing will be open to the public as a forum to receive comments on the proposed rules. The proposed definition of "Outpatient Diagnostic Center", which was crafted in cooperation with representatives from Tennessee Hospital Association (THA), Tennessee Medical Association (TMA) and the Department of Health, has generated a large number of comments in opposition from physicians. Comments received will be provided to Agency Members for discussion at the December or January meeting.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director

MMH:sk